

TO THE
PARLIAMENT
OF THE
Commonwealth
OF
ENGLAND.

And every individual Member thereof.

THE GREAT
COMPLAINT
AND
DECLARATION
OF

About 1200. *Free-holders and Commoners*,
within the Mannor of *Epworth*, in the Isle of *Ax-*
holm, and County of *Lincoln*, setting forth the Plot
and Design of *Mr. John Gibbon*, and his Fellow-Proje-
ctors, to gain a Possession of the said Free-hold-
ers ancient Inheritance, in their commona-
ble grounds there, contrary to Law.

Humbly presented, and desired to be perused.

London; Printed in the year 1654.

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I have visited the place (mentioned)
as a place of meeting

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The Great Complaint and Declaration
of about 1200. Free-holders and
Commoners within the Mannor
of *Epworth* in the Isle of *Axholm*,
and County of *Lincoln*.



He business of the Isle of *Axholm*, under the notion of a Riot, hath been rendred famous by that exception in the Act of Oblivion of the late Parliament of the Commonwealth of *England*, wherein there is an exemption from pardon, touching the pretended Riots committed in the said Isle; as also by the proceedings that have been upon a Petition of certain Undertakers, who call themselves Participants in the Level of *Hatfield-Chase*, prosecuted by Mr. *John Gibbon*, the visible Prosecutor for himself and his Fellow-Participants, which Petition was by that Parliament referred to a Committee thereof, and from thence strange proceedings have grown, and by high crying up of a Riot, and noysing it all abroad, the whole case of the Isle of *Axholm* is misrepresented, and endeavoured to be

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tendred odious, though as just, honest and warrantable by the Law of *England*, in point of Title at Law, or matter in enquiry, touching the grounds in controverſie, as any; and therefore becauſe the Free-holders there foreſee ſome reports drawn up concerning the Mannor of *Epworth* in the nature of a Riot, attending a Bill to be brought into Parliament for ſettlement of *Hatfield-Chaſe* by an Act of your Honors, they humbly crave leave to acquaint you, that there is no report cometh or made, that mentioneth their Title at all to the grounds in queſtion, neither that truly ſaith the equitable part, as indeed it is, but are drawn up and dreſſed in the ugly form of a Riot (to gain a poſſeſſion) with all advantage to the Participants, on purpoſe excluding the Title and proceedings that have been now within theſe nine years in the ordinary Courts of Juſtice, and to remove a poſſeſſion of thirteen years now late continuance, from the ancient and true owners (the Free-holders) who are now legally inveſted in it, to give it to thoſe that never yet legally had it; and therefore in order to the diſcovery of the whole truth in this buſineſs of the Iſle of *Axholm*, it is neceſſary to be known, that there are about 60000. acres, (ſaid to be drained ground) lying contiguous within the ſeveral Counties of *York*, *Lincoln*, and *Nottingham*, and that the grounds in controverſie are 7400. acres, lying in the Mannor of *Epworth*, in the County of *Lincoln* onely, and not extending into, or being parcel of *Hatfield-Chaſe*, and the reſt of the grounds in the other Counties. It is alſo neceſſary to know the ſituation of the Mannor of *Epworth*, which lyeth in length about ſix miles, having *Hatfield-Chaſe*; and divers other waſts (parcel of the ſaid 60000. acres, and belonging to other Mannors) on the *weſt*, and the River of *Trent* adjoyning and running all along towards *Humber* on the *eaſt*; ſo as by conſequence (as well as by Proof in the depoſitions) it appears, that without cutting through the Mannor of *Epworth*, *Hatfield-Chaſe*, and the other waſts lying on the *weſt* could not have been drained; and therefore the Participants did but at their firſt coming into thoſe parts

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parts, desire to cut through the Mannor of *Epworth*, without any further or other incroachment upon the Inhabitants there, for drawing the waters into the said River of *Trent*, through the said Mannor, to drain the said Chafe.

And although the Free-holders had such a right in the said grounds within the Mannor of *Epworth*, as hereafter will appear, could not by Law be improved against by any Lord of the Mannor; yet upon the draining of the said *Chafe*, and the other Mannors lying on the West of *Epworth*, the Participants by colour of the late Kings illegal Parent, did about twenty years since, by force of Arms, murdering some, and wounding and imprisoning others of the Commoners, violently enter upon their said grounds, and have for divers years much abused, and grievously oppressed them, forcing from them the said Lands, (being the Free-holders ancient inheritance, and lying without the said Level of *Harfield*) granted to them about 300. years since by a former Lord of the Mannor, in confirmation of the ancient right, which the Free-holders in those times had, (for it is observable, that the Deed makes mention, that at that time they had had right in those grounds, time out of mind) and these Participants detained the same Lands from them in the times of tyranny, by means of the Council-Table and Star-Chamber, not suffering the Commoners to enjoy the benefit of the Law: yet some of the said Participants by their Agents so much abused the Commoners, that even in those times some of them were censured in the *Star-Chamber* to stand in the Pillory, and by dures of imprisonment, sore Fines, issues estreated, threats and menaces against the Commons, and bribery (for they bribed the Solicitor with 80. l.) some few of the Inhabitants (the major part, and those of the most considerable, being free) were forced to subscribe to Papers, the Contents whereof many of them never knew, as they answer upon their oaths in the Exchequer, but the substance thereof indeed was, that they should stand to the award of the Kings Attorney-
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General, whose award (without hearing the merits of the cause) was ratified and confirmed by the Decree of Court of the Exchequer, in the twelfth year of the late King, as by the Decree it self, if Mr. *Gibbon* durst but shew the inside of it, would appear; for further then the outside of it, it hath not be shewn to any Committee: and yet there is some mention made of it in the late Councils Order, wherein Mr. *Gibbon* was certainly beholden to the Clerk that drew it; as if that Decree should hold place, notwithstanding the Participants own last Decree of the 10. of Febr. 1550. and the Free-holders verdict at Law to the contrary. Now though Mr. *Gibbon* cannot abide to hear of the Title, and the proceedings that have of late been at Law in this business (thinking to dam all up with the noyse he hath made of a Riot) and though the Title hath hitherto been refused to be heard or medled with by any Committee of Parliament, yet the Free-holders rely upon that as their main strength, and do look upon your Honors as the only refuge they have under God to preserve their rights according to Law, from the violation of those, that against Law endeavour to usurp a possession: and having several rights to the ground in question, as not onely common appendant, but also common in grois, (though the former be certainly included in the latter) they humbly lay down their several Titles as followeth) and first as to common appendant.

The Free-holders and Commoners within the Mannor of *Eppworth*, have time out of mind, had common appendant to their several Tenements, for all manner of Cattel, Levant and Couchant thereupon, at all times of the year, in and through all the waits and commons within the said Mannor, (whereof the grounds in controversie are the greatest part, and was alwayes of the best nature) and in confirmation of this their ancient right, Sir *John Mowbray*, sometime Lord of the said Isle, having in his time made an improvement of part of the said waits to himself, as Lord, did about 300. years since grant unto the Free-holders by
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an ancient Charter in French, but here translated into English by William Riley, Keeper of the Records in the Tower, as followeth. *Here follows the Indenture as before printed*

THis Indenture between their thrice Honored Lord Sir John Mowbray, Lord of the Isle of Axholm, and of the Honor of Brumber, of the one part; Rawlin of Brumham, William of Brumham, Roger of Brumham, John of Thetiltorp, Thomas Melton, Jeoffrey Laundels, Vincent Bavant, John Gardner, John Cutwolfe, Richard of Belwood, and John at Hagh, his Tenants of the Isle of Axholm, and all the tenants and resiants within the said Isle, on the other part, Witneseth, that all the said tenants and resiants have supplicated their said Lord Sir John Mowbray, to have remedy of divers claims touching their right, and divers debates and grievances to them made by the Ministers of the said Lord Sir John Mowbray: upon which supplication it is agreed, that the said Sir John Lord aforesaid, hath granted for him and for his Heirs, to the said Rawlin, William, Roger, and John, Thomas, Jeoffrey, Vincent, John, John, Richard, and John, tenants aforesaid, and to their Heirs, and to all, having their estate, or parcel of their estate, and to all the other tenants and resiants within the Isle of Axholm, and to their Heirs, and to all that hereafter shall have their estate, all the things underwritten, that is to say, that the said Sir John, nor his Heirs, shall not approve any Waste, Moors, Woods, Waters, nor make, or shall make any other improvement of any part within the said Isle of Axholm; and that the said Rawlin, William, Roger, John, Thomas, Jeoffrey, Vincent, John, John, Richard, and John, and their Heirs, and those that shall have their estate, or parcel of their estate, and all other tenants and resiants within the Isle of Axholm, shall have their common, which is appendant to their free tenement, according to that which they have had, and used, time out of mind. And also that the aforesaid Rawlin, William, Roger, John, Thomas, Jeoffrey, Vincent, John, John, Richard, and

Note, that 33. Edw. 3. the Freeholders had then had Common time out of minde.

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John, and their Heirs; and all those which their estate, or parcel of their estate shall have, and all other the tenants and residents within the aforesaid Isle, may dig in the Moors and Marshes, turfs, trees, and roots, found within the soil of the said Moors and Marshes; and that one pound, containing one half acre, be made at the cost of the said tenants, and maintained hereafter by the said Lord and his heirs in Belton-car, and one other in Haxey-car, containing as much, and that they be made in places for the most ease of the said tenants; and that no Chase of Beasts of Commoners be made, but once a year; and that the said Beasts be not otherwise driven, but to the pound of the Pasture where they shall be taken, and there the Beasts of the said tenants to be delivered by the tenants aforesaid, or by their servants: and saving alwayes to the said tenants, and to their heirs, and to their servants, that they may take their Beasts, and receive them in the drift, or before the drift, so that the drift of Beasts of strangers, be not thereby disturbed: And that in the severalties of the said Lord adjoining to the places in which they have Common, which are open, and not inclosed, no Beasts of the said tenants and Commoners be taken, nor impounded, but easily driven out: And that the said tenants and residents, and their heirs, and all those which their estate, or parcel of their estate shall have, may dig, and take turf, or other earth, for the walls of their houses, and for all other necessities of the said houses, and for to inclose the walls of their Messuages or Mansions; and to dry Flagg in all the said waists, for to cover the ridges of their houses and walls, and for bringing of trees to repair the river of Trent, where cause of repairing is, and to make them new. And that the said Rawlin, William, Roger, John, Thomas, Jeoffrey, Vincent, John, John, Richard, and John aforesaid, and all other the tenants and residents, their heirs, and all those which shall have their estate, or parcel of their estate hereafter, be not for the future amerced, or troubled for default of not appearing to ring their Swine. And that they may put Hemp to be rated in all the Waters of the Isle, (except the Skires, which are severed to the said Lord Sir John Mowbray) and that the said Lord, nor his heirs, nor his Ministers, make no molestation nor grievance to the dogs of

of the forenamed tenants and resiants aforesaid, nor to their heirs, nor to those which shall have their estate, or parcel of their estate, and if they do, the tenants shall have their remedy at the Common Law; and that the aforesaid Rawlin, William, Roger, John, Thomas, Jeoffrey, Vincent, John, John, Richard and John, tenants aforesaid, and all the other tenants and resiants, their heirs, and all those which hereafter shall have their estate, or parcel of their estate, may fish through all the Waters and Waits of the said Isle, without impediment of the Ministers of the said Lord Sir John Mowbray, except the Skires aforesaid: And also that they may dig Turf, and all other manner of Earth in all the Waits aforesaid, to carry and improve their Land at their pleasure, and that none of the tenants aforesaid, or of their heirs, or of those having their estate impeached of trespass by the Ministers of the said Lord, be amerced for trespass, without answer given in Court, and then by their Peers to be fined and taxed if they be amerceable; and the said John granteth, that all the tenants, and their heirs, and all those which shall have their estate, which are bound to inclose the Woods of the Lord, may take under-wood to make them new hedges, or to repair them as much as shall be necessary, that is to say, ^{in the places Age hath} of the said Woods ^{of the said tenants, their worn out} heirs, and of those which shall have their estate, without being im- ^{the words} peached or grieved by the Ministers of the said Lord Sir John ^{in this} Mowbray: And the said John granteth for him and his heirs, ^{blank.} that all the things and Articles aforesaid be of effect and force in the Law, as well to those which are generally named tenants, and their heirs, as those which shall have their estate, or parcel of their estate; And if in the Articles aforesaid there be any point which may have divers interpretations, or intendments, that it shall be taken to the best advantage of the names, or of the tenants aforesaid, and of their heirs, or of those which shall have their estate, and not otherwise: In witness whereof, the Parties aforesaid have interchangeably put their Seals. Given at our Mannour of Epworth the first day of May, in the year of the Reign of Edward the Third, after the Conquest thirty three.

Now by the testimony of ancient Witnesses upon Record in the Exchequer, it clearly appears, that all things have gone according to this Deed within the said Mannor till now of late, that the Projectors came in against Law, neither did the Freeholders undertake to prosecute Suit for recovery of their right to the grounds in question, without the advice of good counsel upon that Deed, for they had the several opinions of Mr. Hale, now one of the Justices of his Highness Court of Common Pleas, and an Honorable Member of Parliament, Sir Robert Berkley, and Mr. Serjeant Maynard, not acquainting any of them with the others opinion, because they desired to ground a certainty of the validity of the said Deed in Law; and the chief question which was put to them was, Whether the Deed did debar the late King of improvement as he was Lord of the Mannor: to which their several judgements were given, that it did; Mr. Hale giving it under his hand in writing, yet extant; thus: I conceive, (saith he) the Deed is a real discharge, and bindes the Land into whose hands soever it comes, and consequently the King cannot improve. And he further adds, That he conceiveth the benefit of this Deed extendeth to all the tenants, as well those that are not named, as those that are named, and gives his reasons.

1. Because the Lord cannot inclose against those that are named, and consequently there can be no improvement against any.

And 2. That which he saith he doth principally rely upon; is, because it is a real discharge of the Waste of that liberty of improvement which the Statute gave him; and though tenants be not a sufficient name of Purchase at this day in point of interest, it is in point of discharge.

Maith. Hale.

Sir Robert Berkley gave his opinion thus: I think, saith he, it doth, if the Lord *Maynard* had estate in Fee; for as I conceive, it is more then a Covenant, and makes the improvement

provement by the King unwarranted by *Merton* or any other Statute.

Ro. Berkley.

Mr. *Maynard*'s opinion was, that it past an interest, and therefore the King could not improve against it.

Now it is clear by several Inquisitions extant upon record in the Tower, that the said Sir *John Mowbray* died seized as Lord of all the said Isle; as also, that the *Mowbrays* Dukes of *Norfolk*, by a long-continued Race, were Lords of the Mannor of *Epworth*.

Escaet. de anno Ed. 3. 43 pars. 7. and so anno 6 R. 2. num. 58.

The maner of keeping the Deed, hath been in a Chest bound with iron, in the Parish-Church of *Haxey* (the greatest Town within the Mannor) by some of the chief Freeholders, who had the keeping of the keys: which Chest stood under a window wherein was the Portraiture of *Mowbray* set, in ancient glass, holding in his hand a Writing, which was commonly reputed to be an emblem of the Deed; till now of late that the glass was broken down: as appears also by the proofs in the Exchequer.

It appears also by other ancient Deeds, before this Deed, that the said *Mowbray* did make an approvement to himself of the said Wastes, before he made the said Deed to the Freeholders.

Now as to the proceedings that have been within these nine years in the ordinary Courts of Justice, the Freeholders give your Honours this brief, but true account, as followeth.

In *Henry-Tenth*, 1645. they commenced Suits at Law, to try their right to the ground in question.

And in *Trinity-Tenth* following, which was in the year 1646. (and not in 1642, as the Participants in their Petition to the late Parliament falsely suggest) the Participants exhibited an English Bill in the Exchequer, pretending Equity, to stay those Suits at Law, and to have the possession of the whole 7400 acres in controversy established with them.

In *Michaehmas-Term*, 1650 the Cause came to full hearing, (till when, the Freeholders were not permitted a Tryal

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at Law :) and the Decree thereupon made, doth but establish the possession with the Participants as it was at the time of that Bill's exhibiting. Where pray note, that 4000 acres of the said 7400 acres in controversy, had been then about five yeers before in the possession of the Freeholders. And that Decree doth also give leave to them to go to a Tryal at Law.

And accordingly, in *Michaelmas-Term 1651.* the Freeholders in pursuance of that Decree by special Order of the Court of *Exchequer*, proceeded to a tryal at the Bar of that Court, and had a Verdict, Judgment, and Execution for them, in the name of *Thomas Vavasour*, a Free-holder, and owner of an ancient Capital Messuage and Land within the Mannour of *Epworth*, called *Belwood*, and a Gentleman of an ancient Family, Son of *Henry Vavasour*, Son of *Thomas Vavasour* the Grandfather, Son of *Henry Vavasour* the Great Grandfather, who married *Joane*, one of the Daughters of *Robert At-Hall*, to whom by Partition, made between her and *Elizabeth*, and *Mary* her Sisters, the same place called *Belwood* did come. *Robert At-Hall* was Son and Heir to *Oliver At-Hall*, who was Son and Heir of *Margery*, one of the Daughters and Coheirs of *Thomas Belst*, and *Emot* his Wife, to whom by partition with *Elizabeth* her Sister, the said place called *Belwood* came: *Emot* was Daughter and Heir to *Richard de Bellewood*, who is one of the eleven specially named in the said Deed of *Mowbray*, and lyeth intombed in the Parish-Church of *Belton*, within the Mannour of *Epworth*, in a Tomb called *Belwood-Tomb*: so as it is clear, the said *Thomas Vavasour*, in whose name the Free-holders had their Verdict, hath both the same estate that *Richard de Bellewood* now about 300. yeers since had, derived to him by Deeds under Seal, and is also of blood unto him lineally descended from him.

This was the first Tryal that the Freeholders could ever obtain in twenty yeers time, at which Tryal it did also appear by the testimony of ancient Witnesses, that they had as well Common in Gross, as Common Appendant, which cer-

certainly makes the improvement by the late King still more illegal.

And two things are observable touching that Windmill mentioned in the Act of Oblivion, wherein the Inhabitants are exempted from Mercy, as touching the pretended Riots committed in the Isle of *Axholm*: The first is, that it was taken in Execution at the Suit of the said *Vavasour*, for 80 l. cost, and 12 d. damages given unto him by the Jury, and the money paid. The second is, That a Tenant to the Participants, who was owner thereof, did in his heat of blood presently after it was thrown down, bring his action of Trespals at Law against a Free-holder in the Isle for throwing down that Windmill, three Houses, and one Barn, to which the Free-holder being Defendant, having pleaded, the Participants durst neither let the Plaintiff (their Tenant) try the cause himself, nor the Defendant try it, but pray upon Record to discontinue and let fall their own action, and to pay the Defendant costs, and 40 s. was accordingly paid.

So as now, Right Honorable, the case in short is this:

The Land in controverſie is 7400. acres of ground, whereof 4000. acres have been now thirteen years in the poſſeſſion of the Free-holders, and is left unto them upon the full hearing of the cauſe, by the Participants own laſt Decree in equity, of the 10. of *Febr.* 1650. which Decree gives way to the Free-holders to go to a Tryal at Law; and in purſuance thereof, they have had a Verdict by ſpecial Order of the Court of *Exchequer*, in the name of one that was no Rioter; and ſince that Verdict, the Free-holders have been in poſſeſſion of all the 7400. acres (being their ancient inheritance, and they the true owners thereof) now three years this *Michaelmas-Term* 1654.

It is therefore now humbly ſubmitted, whether after the ſaid Decree in equity, and proceedings at Law, the miſcarriage of a few in a pretended Riot ſhall occaſion a quiet poſſeſſion of the Lands in queſtion (of ſo long continuance, and

and so recovered) to be given from the Free-holders to the Participants, who never yet legally had it: Or that the Free-holders, who are willing to stand or fall by their title, either in Law or equity, shall not be admitted in a just and equitable way to improve the said grounds themselves for the best advantage of the Commonwealth, having now testified their willingness thereunto, under the major part of their hands, subscribed to a Petition ready to be presented to your Honors for that purpose.

And now, Right Honorable, since Mr. Gibbon will not set forth his Title, or indeed dare not let it appear, be pleased to take notice of what he tells all abroad, and that is, that they have the late Kings Patent, and that 370. of the people have consented to a Decree in the *Exchequer*.


The answer is soon given to them both: For as to the first, The late King could not by Law improve (*causa pauci*) The second is, first, as to the consents, there is not one person that in a legal way consented: For by the Statute of 43. *Eliz.* it ought to be under their hands and Seals indented for the draining of such Lands as are hurtfully surrounded, not Lands of 15 s. and 20 s. an acre: for therein is the cheat, that under pretence of draining a little moorish ground, they (the Projectors) ingrois ten times more of the best ground from the people, and all must go under the notion of draining: And besides, neer half of those that are named in the Decree, never had right of common, and some are named two, three, and four times over, to swell up the number; but admit that they all had had right, yet they were all forced and constrained, and there are above 1100. Commoners, so as there are more then twice as many that never consented at all, and divers of the most considerable in estate. Indeed Mr. Gibbon hath been very busie to shew the outside of that Decree to every Committee; and it is true, the Parchment, and the Seal annexed, are very fair to look upon, and strange things Mr. Gibbon labours to persuade with: the sight thereof; but to shew the inside thereof, how it is but the award of the Attorney-General, that was in those times decreed,

decreed, without ever hearing the merits of the cause; or to shew their own last Decree of the 10. of *Feb.* 1650. which shews how the first was obtain'd, of these things *Mr. Gibbon* will never speak: but give him his due, he tells (and rings it all abroad) of great and notorious Riots committed in the Isle of *Arxholm*, and calls the Inhabitants there Rioters, and notorious Rogues (though honest men then ever will stand on his legs, if they were good ones) and many of their actions, that they have really done for the Parliaments service (such is his impudence) he calls them Riots, and no doubt but if it were in his power, would make all the Parliaments battels Riots, witness his giving out, that the King of *Scots* should not want for 300. men, he himself would furnish him with them, together with horse, arms, and ammunition; and saying, If the Scotch Army prevailed, and got the better of it, he would then take a course with the Isle-men, and put them to fire and sword; and witness the report of raising a Troop of Horse upon the Level in aid of the Scotch King when he came against *Worcester*; are not these things proved? Yes, and much more, but he may thank his good friends *Mr. William Say*, and *Mr. Henry Darley*, who have drawn up a report (none but *Mr. Gibbon* knowing a third man that was at the doing thereof) as partial, and with as much advantage to him and his fellow-Participants, as possibly they could, and that report, together with other reports that have been drawn up meerly about pretended Riots, without taking notice of any title or proceedings that have been at Law, are now foreseen to be approaching your Honors consideration, to fetch away the possession again, now recovered at Law, from the ancient true owners, and give it to those that never yet legally had it: Now to remove a possession in 4000. acres of thirteen years continuance with the Free-holders (being their ancient inheritance) left unto them by the Participants own last Decree of the 10. of *Febr.* 1650. and a possession of the whole 7400. acres, now of three years continuance; after a Verdict at Law, in the name of one that is no Rioter, surely

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ly this cannot but be thought strange, and therefore worthy notice taking, how the design was first framed, and whether it is not much favouring like those in former times (times of Tyranny) for then it was the manner to make the People Rioters, even before they had ever lost the possession, on purpose to weary and vex them, to bring them under fines, and to base submissions, to give away their right; and it is humbly submitted, whether this be not a plot of the same nature, upon perusal of the Participants last refuge, in their Petition to the former of the late Parliaments, which followeth in these words, *verbatim*:—

*Here follows
the humble Petition of the Participants,
as previously printed.*



To the Supreme Authority of this
Nation, the Parliament of the
Commonwealth of England.

*The humble Petition of the Participants, in the draining
of the Level of Hatfield-Chase, in the Counties
of York, Lincoln, and Nottingham, on the behalf
of themselves and others.*

Sheweth,

That the Petitioners, and those under whom they claim, did about twenty years since, at the expence of neer two hundred thousand pound, drain and lay dry sixty thousand acres of ground in the said Level, then drowned, and of small value, and made the same worth 10 s. 12 s. and 16 s. the acre: And as a recompence for their said charge, hazard, and travel, in so publique a work, the proportion of about 24000 acres of the said Lands, whereof 7400. acres of the waste of the Mannour

Mannour of Epworth was part, was settled upon them by (a) good assurances in the Law, as will appear to your Honors upon the examination thereof, and are too long here to insert; and according to the said assurances, the Petitioners had quiet and peaceable possession of the Lands, and so enjoyed the same for many years, and divided, improved, and planted the same; and in particular, upon the 7400. acres of Epworth built a (b) Church, and about 160 (c) habitations, and have constantly paid the Rent of 1228 l. per annum, which was then reserved upon the said whole proportion, and now payable to the State for ever.

(a) This is a falsehood, for they have no assurances good in Law, neither durst they produce any at the time of the examination.

(b) This Church is yet unpaid for: *Bedloe* the man that built it, was undone by it. (c) Houses more like Dogkennels, then for men to live in.

That in the year 1642. in time of the War, some of the Inhabitants of the Mannour of Epworth, by the instigation of one Daniel Noddell an Attorney at Law, did rise in tumults, and laid wast about 4000. acres of the said 7400. acres, demolished the buildings, and destroyed the crops of Corn and Rapeseed growing thereupon; for redress whereof, and establishing their possession, the Petitioners exhibited their (d) Bill in the Court of Exchequer, who granted several Injunctions, and made several Orders to the Sheriffs for quieting the possession; but the tumults growing too great to be suppressed by the ordinary Courts of Justice, the Petitioners had recourse to the Parliament, (e) who were pleased to make several Orders therein for relieving the Petitioners, which likewise were contemned, and the Petitioners by force still kept out of the said 4000. acres.

(d) This is another falsehood, for the Bill was not exhibited till Trinity-Term, 1646. When the Free-holders had

had possession four years before, and had commenced their Suits at Law for the recovery of the rent. (e) They never had any Order of Parliament, but out of the House of Lords, upon a supposed Riot, which being heard at the Bar of the Lords House, the Parties complain'd against were dismissed, and are now for that very thing complain'd of again.

That the Rioters seeing them go unpunished for their former
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insolencies and rebellions against the Law and Government of this State; and having now got the countenance of Lieutenant Colonel Lilburn, and Major Wildman, did in October, 1650. whilst the cause was hearing in the Exchequer, rise in tumults, and destroy'd the Corn and Crops growing upon the residue, being about 3400. acres of the said 7400 acres:

(f) This whereof the Court being informed, granted a (f) Writ of Assistance to the Sheriff to quiet the possession; who comes upon the place, and is there resisted, and in his presence the Fences thrown down. but a-
 gainst such as were Parties to a Decree in the Exchequer, in the twelfth year of the late King, which Mr. Gibbon dare not produce: and those which then put down the banks, did it in a peaceable and legal way, and were no parties to that Decree.

brief this
 (b) This is also a falsehood, for the Decree doth leave 4000. acres of the 7400. with the Freeholders, for it doth but establish the possession as it was at the time of the Bills exhibiting, which was but in 1646. (c) And was not the Windmil, and all the houses worthy to be removed (though not in that manner) when there was neither Law nor equity they should stand? Alas poor Commoners! the fault (if any) was in this, that after twenty years time you could have no trial; and Mr. Gibbon saying, you should never have any so long as you were quick: I say, your fault (if any) was in this, that you did it in so great a number.

pleased to send an Order to the Sheriff of the County of Lincoln,

coln, on the Petitioners behalf; but during these transactions, the Rioters in contempt of Authority and Law, break the houses, fetch away the tenants Cattel, and impound them, and would admit of no (d) Replevins, but forced them to redeem them at what rate they pleased, and proceeded to demolish both houses and Barns, and all other buildings, and destroy all the Corn there growing, and fetch away the materials of those buildings by force, to the (e) damage of the Petitioners and their Tenants, in the whole 40000 l. besides the damage to the Commonwealth in general, by destruction of so many habitations and Plows for tillage and husbandry.

(d) The Participants dare not try the cause, either by Replevin, or otherwise.

(e) What

damage can be done to those that have no title?

The whole proportion of 7400. acres within this Mannour, being thus laid waste, the said Lilburn, Wildman, and Noddel, with divers of the Rioters, ride and view it, and then they make (f) agreement with divers of the most notorious Rioters, that for 2000. acres of that Land to be given to Lilburn, where he would make Election, and 200. to Noddel, they would defend them against all Fines and other troubles, concerning the Riots before mentioned, and defend them against these Petitioners for the other 5200. acres. And presently after this, they took the same 2200. acres into their possession, worth at least 1600 l. per annum, and so made at the charge of the Petitioners, and have contracted to let proportions, and have emred upon one house, and re-edified the same, and keep the possession thereof: And on the 19. of October last, being the Lords Day, Lilburn with a great number armed came to the Church, and there (g) forced away the Minister and Congregation; saying, He should not Preach there, unless they were stronger then he; and now makes it a place to lay his

(f) I refer this to the contradiction of the Participants own Witnesses in the Depositions, and upon a fair examination, shall produce many Witnesses, that there was no such a

agreement: And how Mr. Say, in that point, wrested the testimony of some. (g) Every man had free liberty given to come and hear, as appeareth by the testimony of their own Witnesses.

Hay, and a Slaughter-house to kill Cattel in; and during his
abode

abide in the Country, practised with the Inhabitants of other Mannors to do the like, as Epworth had done; saying, That Decrees were illegal: and to make the present Government odious, speaks high, reproachful and seditious language against the Parliament and present Government, as will appear upon examination.

The Petitioners most humbly beseech your Honours to take into your consideration:-

1. *The great disobedience to the Parliament, and Courts of Justice, and contempt of present Government.*
2. *The great damage to the Commonwealtb in general; and in particular to your Petitioners and their tenants, to the value of at least 40000 l.*
3. *The consequence of such unparallel'd and rebellious Riots; and to direct such a way for the Petitioners reparation, and damage, and future preservation of this Level, as to your grave wisdom shall be thought meet.*

And your Petitioners shall pray, &c.

This Petition being referred to a Committee at least of fifty of the late Parliament (for it was the Committee in the business of Sir *Arth. Haslerig* and *Primate*) to hear and report the whole matter when it came to examination: the Free-holders offered to make out a good title, and some worthy Gentlemen of the Committee gave way to it, but (*Mr. Gibbon* labouring to prevent the title) others overvoted it in the Negative, and so *M. Gibbon* hath with credit failed to make good the words towards the beginning of his Petition, wherein he telleth the late Parliament, that the Lands are settled upon them by good assurances in the Law, as will appear upon examination; and so hath rendered his Petition in that point no better then a cypher. But at the last, after three quarters of a year, or thereabouts, attendance in *London*, of neer thirty Witneses for the

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the Free-holders, a Report was cunningly and privately drawn up by Mr. *William Say*, and Mr. *Henry Darley* (none of the rest of the Committee that was ever heard of, being privy) the former being a Lawyer, a Drainer, and Mr. *Gibbons* usual Chapman for Land in those parts, and Chair-man, and Penman of the Depositions (for he would not suffer the Clerk chosen by the Committee to pen them, such was his zeal to promote the Participants complaints) and the other his great Coached and familiar friend. Now surely this report of theirs, is worthy some examination: First, to know how they have reported the equitable part of the Free-holders case (for that was heard.) And secondly, the pretended Riot: And lastly, touching the concealing of Papers that were given into Mr. *Say*, as Chair-man, and the delusions thereby drawn upon those that should judge in the case. Never could any have thought, that two men intrusted should deal so treacherously, as almost to omit all the equirable part of the Free-holders defence. As for example, whereas it is proved on the Free-holders part, as followeth.

1. That the grounds which the Participants took from the Free-holders, was most of it before the pretended draining worth 20 s. and 15 s. an acre yearly, and 10 s. an acre one with another throughout, and concerning the nature and goodness of the ground.

2. That the Free-holders cannot keep half the Cattel Levant and Couchant upon their several tenements, as they could before the pretended draining, but are forced to turn their Meadow ground into pasture, and to joynt

Witnesses Names.

Thomas Farr, the elder.
Tho. Tailor; *Tho. Philips*,
Tho. Todd, *John Brown*,
John Tompson, li. C. *Rob.*
Dyneley, Esq. *John Clark*,
Isaac Chapman, *John Jervis*,
Tho. Farr jun., li. C.

Tho. Farr, Ser. *Tho. Farr*,
 Jun. li. C. *Tho. Todd*, li. C.

their

their Catrel out in forraign places.

Witnesses Names.

3. That divers Free-holders sold their estates in the Isle, and went and lived elsewhere in forraign places, meerly because of oppression drawn upon them by the Participants; and divers were beggerd and undone.

*John Plompton, Gent. li.
C. Tho. Farr, Tho. Todd.*

4. That the very best ground was taken from the Commoners, one acre of that which the Participants took, being worth three of that which was left to the Inhabitants.

*Isaac Chapman, Tho.
Tailor, Tho. Farr, John
Tompson, li. C.*

5. That the Participants by plowing and burning the ground, have taken away the very heart thereof.

6. That the Undertakers at their first coming into those parts, did but desire to cut through the Mannour of Epworth; and that without cutting through the Mannour of Epworth, they could not draine Hatfield-Chase.

*Tho. Tailor, Tho. Todd,
Tho. Farr.*

7. That the Mannour of Epworth is in length five or six miles, having Hatfield-Chase, and divers other Mannours lying on the West, and the River of Trent,

*Tho. Tailor, Tho. Todd,
Tho. Farr.*

ing all along towards *Humber* on the *East*, into which the Waters descend from *Hatfield Chase* through the Mannour of *Epworth*.

Wirneffes Names.

8. That the *South* part within the Mannour of *Epworth*, is still as subject to be surrounded with waters, as before.

Tho. Tailor, Tho. Todd.

9. That the Participants have been at no more charge within the Mannour of *Epworth*, then in cutting a foure miles draine in length, and scouring an old drain.

Tho. Tailor, Tho. Todd.

10. That divers of the Commoners were murdered and shot to death, when the Drainers first gained possession; and the Inhabitants, were many of them, constrained to fly from their houses, and to lye in the Fields under hedges, being terrified, and frequently affrighted by Pursuivants and Serjeants at Arms: and how Free-holders Catrel have of late been shot to death.

William Wells, Tim. Ellis. John Francis. John Tompson.

11. That it hath been *M. Gibbons* usual saying, That the Free-holders should never have Tryal at Law so long as they are quick.

John Plompton, Gent. Richard Grew, upon his cross examination.

12. That

Smith this

12. That in former times the
course of Justice was obstructed
by an Order of the Exchequer,
prohibiting *Replevins* to be granted to the Free-holders;
and how in those times the Participants
bribed the Free-holders Solicitor.

Roger Walker, Gent. li.C.
Exchequer Order.

All those twelve Heads (and many more) whereof Nine concern the equitable part of the Free-holders defence, hath Mr. Say not at all reported: which being compared with all that he hath reported, will shew which way he set his byas. Now to set down his own words in the report *verbatim*, consisting but in ten lines, which is all he affordeth the Free-holders, for almost thirty witnessses, half a year here in *London*.

1. The Inhabitants (saith he) in their defence say, That the Lands before the draining fed Cattel fat for the Butcher; but the Witnesses being cross interrogared, say, that it was overflown with water in Summer before the draining, and that in *May, June, and July*, and all the Summer long they took Fish there in several places, unless in a very dry Summer.

2. They also say, that *Snow Sewer* was pulled up to defend the Isle from the coming of Sir *Ralph Hansby*, then of the Kings Party.

3. They also say, That the *Saß* was pull'd up by the command of one whom they knew not; but he told the Inhabitants, he was a Captain of Sir *John Meldrums*.

Those three Heads are all that Mr. Say hath reported. Now the Free-holders humbly beseech your Honours to note but how he hath darkened and imprisoned the truth in all those three Heads.

As to the first, It plainly appeareth by those nine Heads before mentioned, to be by him omitted in his report.

And as to the second and third, was it not plainly proved,

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proved, that the inhabitants of the Isle rose in Armes for the Parliament, raised two Foot-Companies, and maintained them at their own charge for them ; and that what was done as to the *Sewer* and *Saß*, was clearly for the Parliaments service, and by command ? And was it not offered to be proved by the Free-holders, (but denied by Mr. *Say*) that the Participants raised upon this Level a Troop of Horse for the late King, against the Parliament, and how they hazarded the life of the late-brave General, now Lord *Fairfax*, being upon his return thorow that Level in his sad condition from *Adderton-Moor*, by taking up the Bridges, and preventing his passage in those parts ?

Now as touching matter of Riot, if it be put to the question between God and the Conscience, who have been the grand Rioters in the Isle of *Axholm*, that is, Whether the Participants, that came in against Law, when divers of the Commoners were murdered and shot to death, and many wounded, who did but turn again (as worms trod upon will do) in the just defence of their undoubted Right of possession, which was wrested from them by Councel-Table, and Starchamber-Orders, their persons many of them imprisoned, and many enforced by Pursuivants and Serjeants at Arms to lie from their habitations in the fields under hedges, having their houses broken to be apprehended, being usually termed *Rebels*, and threatned to be hanged at their doors ; and plagued with multitudes of Starchamber-Proces, some forced to flee out of the Kingdom at that time, having their goods illegally distrained and sold, for Issues estreated out of the then-Kings Bench ; others, to sell and mortgage their Lands, to purchase an unjust peace, against the villanous, tyrannical, and forcible entries, & intrusions, arrests, and imprisonments, brought upon them by the said Participants, contrary to Law. And their possession thus forced from them, was as unjustly detained for divers yeers. Whether therefore now the Participants or the Inhabitants be the Rioters, who all along have desired Tryals at Law, but could not have them ; nay, *Gibbon* himself several times saying, (as is proved)

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they

they should never have any so long as they were quick. Certainly, let but Self-interest be laid aside, and Conscience must needs conclude the Participants to be the Rioters, and the cause both of former and late disturbances. And Mr. *Gibbon* and his first fellow-Participants in these parts, or whatsoever they were that had their hands in these horrid things, are well they have hitherto escaped the Rope, for committing such unparallel'd actions against the Law.

All which notwithstanding, be pleased to see the impudence of him, how under the notion of Riots he condemns the Parliaments service, and seeks to gain damages to himself, even as for Riots, though things done for the Parliaments service. And his good old chapman and friend, Mr. *Say*, in the drawing up his Report, hath helped him all he can. To instance one particular: let his Report it self, about the middle thereof, shew his partial dealing, where he saith touching the possession, *That upon full hearing of the Cause, the possession was established with the Participants*: whereas it is but established as it was at the time of the Bill. Wherein he tells the truth, but not the whole truth, as appears by the very Decree it self, of Feb. 10. 1650. which also gives way to the Freeholders to go to Tryal at Law; and they accordingly had a Verdict, and both were returned in to Mr. *Say* as Chair-man; but he, in stead of sending them in to the Council, lets them lie in the Clerk's hands, and by delusion hath carried others (honourable persons) to approve of his Report, and to certify their opinions against the Freeholders possession, answerable to the Participants designe, which is, to reach the possession in the grounds in question, and fetch away the same by your Honours extraordinary power, upon the score of a pretended Force committed by the people, and to make null, or at least drown all mention of the proceedings that have been at Law, and take away the benefit of the Free-holders Verdict, under pretence it was but a Verdict by default: whereas indeed, the Participants can never make any good Defence, and therefore seek holes and corners, and cover their naked Title with excuses no better then

then fig-leaves : For, was it not a Verdict at the Bar ? nay, at the Exchequer-Bar too ? and by special Order of that Court, after a tedious Suit in Equity upon the Participants own Bill fully heard ? And were not their Counsel at Law all present ? But if this be not answer sufficient, it is offered to be tried again and again.

Now what is it that these Participants would have ? If it be but as they at first desired', to cut thorow the Freeholders grounds to drain *Hatfield-Chase*, the Freeholders are not against it ; for they desire to do the Drainage no hurt, (nor ever did :) but to yeeld the Participants an Inch, and they to take an Ell, this the Freeholders deny : for they, under your Honours favour, will cut out their own Cloth themselves, and improve the grounds both for the good of the Commonwealth and themselves.

And for any charge that the Participants have been at within the Mannor of *Epworth*, although it might be answer sufficient, that they did it for their own ends ; yet, upon a just Account, the Freeholders will allow them for every penny, two-pence, out of the profits which the Participants have received and taken : and when that is done, they must needs be still great debtors to the Free-holders. For as to the great charge that the Participants pretend they have been at in the whole Drainage, let them take it again upon the whole Drainage, where they laid it forth : for they prove no particular charge they have been at that way within *Epworth*, And as to Damages, what damages ought to be given to those that have no Title, nor have made any Improvement in the grounds ? and if no Improvement, this turns the scale of recompence to be given to the Inhabitants, for all the time they were illegally outed of the possession. And if it be true, (as is affirmed) that the Participants did raise a Troop of Horse, and fought for the late King against the Parliament, and so were the original cause of the Sluce and Sals taking up, mentioned in Mr. *Say's* Report, whereby they pretend a great deal of damage done to them by the Inhabitants, who raised two Foot-Companies

for the Parliament, and for their defence, and the Parliament's service, and by their authority, took up the Sluce, and drowned their own Corn as well as the Participants. And if it be also true, that the Sals was taken up, upon a designe which Sir *John Meldrum* had against the late King's party; then certainly it is as clear, that the Participants and their tenants ought to have no damages allowed for those things, till Mr. *Gibbon*, according to his saying, with his 300 men and horse armed in assistance of the Scotch King, come to put the Isle of *Axholm* to fire and sword.

By this which hath been said, it may appear, that the Mannor of *Epworth* differeth much in the Title from other draynings, which no doubt in some places are lawful and laudable, as being created by Law of Sewers, which this of *Epworth* never was; or by lawful and warrantable ways, according to the Statutes of Improvement; which this never was: for neither had the Lord a power to improve, neither was there any legal consent of any of the Free-holders to make it good.

And now if Mr. *Gibbon*, according to his usual manner, cry out of Scandal or Riot, (for he is excellent at it) thereby to blemish or undermine the Truth, the Records that have been cited are extant, (if Mr. *Say* have yet returned them in) whereby it may appear whether these things be so.

The nature also of the Grounds in controversy within this Mannor, differeth much from those in many other places, most of it being a clay and sand, and not so much Moory and Marsh as elsewhere in other places.

Now these things being so, the Free-holders pray and hope, that your Honours will not interpose with your extraordinary power, to remove a possession of their ancient Inheritance, or any part thereof, thus by Law recovered, continued, and settled, without due course of Law; whereunto they shall humbly submit, and therein willingly acquiesce.

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The Lord direct your Honours to hold forth the Law to them ; for there is nothing in this Case, that is not determinable at Law. So shall the hearts of many thousand men, women, and children, in the Isle of *Axholm*, have occasion to bleis God for his deliverance, when they see that through your means the Law of the Land is become their protection in their estates, against usurpers and wrong-doers.

Signed by me

Daniel Noddel,

Solicitor for the Freeholders.



25 *Edw.* 3. Chap. 4.

Amongst other things, it is thus enacted,
Viz.

Item, *Whereas it is contained in the great Charter of the Franchises of England, That none shall be imprisoned, nor put out of his Free-hold, nor of his Franchises nor free Customs, unless it be by the Law of the Land: It is accorded, assented, established, that from henceforth none shall be taken by petition or suggestion to our Lord the King or his Council, unless it be by Indictment or presentment of his good and lawful people of the same Neighbourhood where such deeds be done, in due manner, or by process made by Writ original*

10 *Edw.* 4.
fol. 6. *Dyer*
fol. 104.
Cook 1. 5.
fol. 6. 1. 10.
fol. 74. *Cook*
1. 11. fol. 99

ginal at the Common Law, nor that none be out of his Franchise or Free-hold, unless he be brought in answer, and fore-judged of the same by the course of Law. And if any thing be done against the same, it shall be redressed, and holden for none.

Stat. { 5 Edw. 3. cap. 9.
28 Edw. 3. cap. 3.
7 Hen. 3. cap. 9.

Divers precedents may be produced in former Parliaments, shewing that no matter for which there is relief in the Courts of Justice, ought to be complained of in Parliament.

PROV. 23.

Verf. 10. Remove not the old landmark, and enter not into the fields of the fatherless.

Verf. 11. For their Redeemer is mighty; he shall plead their cause with thee.

FINIS.



